

the Commission or hearing officer shall consider, in addition to the factors set forth in § 201.161, the availability of co-counsel for the party or of other members of a suspended counsel's firm.

(b) *Deficient filings; leave to cure deficiencies.* The Commission or the hearing officer may reject, in whole or in part, any filing that fails to comply with any requirements of these Rules of Practice or of any order issued in the proceeding in which the filing was made. Any such filings shall not be part of the record. The Commission or the hearing officer may direct a party to cure any deficiencies and to resubmit the filing within a fixed time period.

(c) *Failure to make required filing or to cure deficient filing.* The Commission or the hearing officer may enter a default pursuant to § 201.155, dismiss the case, decide the particular matter at issue against that person, or prohibit the introduction of evidence or exclude testimony concerning that matter if a person fails:

(1) To make a filing required under these Rules of Practice; or

(2) To cure a deficient filing within the time specified by the Commission or the hearing officer pursuant to paragraph (b) of this section.

§ 201.190 Confidential treatment of information in certain filings.

(a) *Application.* An application for confidential treatment pursuant to the provisions of Clause 30 of Schedule A of the Securities Act of 1933, 15 U.S.C. 77aa(30), and Rule 406 thereunder, 17 CFR 230.406; Section 24(b)(2) of the Securities Exchange Act of 1934, 15 U.S.C. 78x(b)(2), and Rule 24b-2 thereunder, 17 CFR 240.24b-2; Section 22(b) of the Public Utility Holding Company Act of 1935, 15 U.S.C. 79v(b), and Rule 104 thereunder, 17 CFR 250.104; Section 45(a) of the Investment Company Act of 1940, 15 U.S.C. 80a-44(a), and Rule 45a-1 thereunder, 17 CFR 270.45a-1; or Section 210(a) of the Investment Advisers Act of 1940, 15 U.S.C. 80b-10(a), shall be filed with the Secretary. The application shall be accompanied by a sealed copy of the materials as to which confidential treatment is sought.

(b) *Procedure for supplying additional information.* The applicant may be re-

quired to furnish in writing additional information with respect to the grounds for objection to public disclosure. Failure to supply the information so requested within 14 days from the date of receipt by the applicant of a notice of the information required shall be deemed a waiver of the objection to public disclosure of that portion of the information to which the additional information relates, unless the Commission or the hearing officer shall otherwise order for good cause shown at or before the expiration of such 14-day period.

(c) *Confidentiality of materials pending final decision.* Pending the determination of the application for confidential treatment, transcripts, non-final orders including an initial decision, if any, and other materials in connection with the application shall be placed under seal; shall be for the confidential use only of the hearing officer, the Commission, the applicant, and any other parties and counsel; and shall be made available to the public only in accordance with orders of the Commission.

(d) *Public availability of orders.* Any final order of the Commission denying or sustaining an application for confidential treatment shall be made public. Any prior findings or opinions relating to an application for confidential treatment under this section shall be made public at such time as the material as to which confidentiality was requested is made public.

§ 201.191 Adjudications not required to be determined on the record after notice and opportunity for hearing.

(a) *Scope of the rule.* This rule applies to every case of adjudication, as defined in 5 U.S.C. 551, pursuant to any statute which the Commission administers, where adjudication is not required to be determined on the record after notice and opportunity for hearing and which the Commission has not chosen to determine on the record after notice and opportunity for hearing.

(b) *Procedure.* In every case of adjudication under paragraph (a) of this section, the Commission shall give prompt notice of any adverse action or final disposition to any person who has requested the Commission to make (or